

I. ARGUMENT

The Examiner has altered his arguments in a manner that differs from his prior assertions in this case, particularly with regard to the § 103 rejection of claim 17. Appellants respectfully submit the following remarks in response to the Examiner's new arguments.

A. The § 103 Rejection of Claim 17 Should Be Reversed.

The Examiner's Answer provides a "claim map" of claim 17. Examiner's Answer at 6-8. Appellants respectfully submit that the claim map is flawed. For example, the claim map, with respect to the recitation "making the module available for use in constructing the supplier's and reseller's web sites, such that, using the same module, the supplier and the reseller web sites may incorporate common information while at the same time being customized," alleges that "this limitation is shown by the above disclosure." Examiner's Answer at 8. This is incorrect. Neither Call nor Tobin teaches or suggests these recited features, and nowhere does the claim map establish that Call or Tobin teaches the recited features.

Call is directed to methods and apparatus for disseminating product information via the Internet. Call, Title. Call discloses an Internet system, which employs a product code translator that stores cross-references between product codes and the address of Internet product codes and the address of Internet resources which provide information about the products designated by the codes. Call, Abstract. Call provides an example where a product reseller or consumer, using the product code translator, accesses product information from a source, typically a manufacturer. Id. Accessing product information from an existing third party website, and thus disseminating product

information by the third party website via the Internet has nothing to do with “constructing the supplier’s and reseller’s web sites, such that, using the same module, the supplier and reseller web sites may incorporate common information while at the same time being customized,” as recited in independent claim 17.

The Examiner’s Answer asserts that “if the prior art website has the same look and functionality, the support hardware and software such as web servers and databases that construct the website can be considered the broad term of ‘a module available for use.’” Examiner’s Answer at 9. Appellants respectfully disagree, and submit that, even assuming, *arguendo*, that the assertion were true, neither the Final Office Action, mailed August 9, 2007, nor the Examiner’s Answer, establishes that the retailer’s website and the manufacturer’s website have the same look and functionality. Nowhere does Call teach or suggest that the manufacturer’s website and the retailer’s website have the same look and functionality. The manufacturer’s website of Call, which has product information, and the retailer’s website of Call, which contains a hypertext link to the manufacturer’s website so its customer can access the product information from the manufacturer’s website, cannot be said to have the same look and functionality.

In addition, the claim map alleges that “[f]rom Call, the shared product information . . . is inherently on both the supplier’s and the reseller’s website.” Examiner’s Answer at 7. Again, the claim map attempts to make assumptions without presenting sufficient factual basis. In particular, Call does not necessarily disclose these features and, thus, there is no basis for alleging inherency. See, e.g., M.P.E.P. § 2112(IV). As explained above, Call is directed to disseminating product

information via the Internet from a source, typically a manufacturer. Thus, there is no shared product information inherently on both the retailer's website and the manufacturer's website; otherwise, the retailer would not provide its customers with a link to the manufacturer's website to obtain the product information from the manufacturer. In fact, Call teaches away from having shared product information on the website because Call is directed to disseminating product information from a source, typically the manufacturer's website, to resellers, customers, and any others who need or desire the information. Thus, the claim map fails to present sufficient factual basis and technical reasoning to demonstrate inherency.

Tobin fails to cure the deficiencies of Call. Tobin teaches dynamically presenting HTML documents that are customized with content indicative of existing brand name familiarity. Tobin, Abstract; claim 1. Tobin discloses one dynamically presented HTML document with the "PC" logo (FIG. 1C), and another dynamically presented HTML document with "HomeArts" logo (FIG. 28C), both by a single website (pcflowers.com). Although the claim map portrays the FIG. 1C and FIG. 28C as representatives of two distinct websites, they are, in fact, two documents from a single website. Having a single website dynamically presenting HTML documents that are customized with content indicative of existing brand name familiarity is not the same as "making the module available for use in constructing the supplier's and reseller's web sites, such that using the same module, the supplier and the reseller web sites may incorporate common information while at the same time being customized," as recited in independent claim 17. For example, nowhere does Tobin teach or suggest that a common module is made available for use in constructing both the PC website and the

HomeArts website, such that using the same module, the PC website and the HomeArts website may incorporate common information while at the same time being customized. In fact, the HomeArts website is not even described in detail in the Tobin reference. Merely showing that one website can be customized with another brand is insufficient to show that a common module is available for use in constructing two websites, one of which is not even described in detail in the reference. In addition, neither the Final Office Action nor the Examiner's Answer even establishes that the PC website and the HomeArts website (as opposed to the HTML document from the PC website that has a HomeArts logo) have the same look and functionality.

II. Conclusion

For the reasons presented in the Appeal Brief, as well as the reasons outlined above, the Board is kindly requested to reverse all of the outstanding claim rejections, so that pending claims 17, 18, 25-27, 34, 36, and 38 may be allowed.

To the extent that any extension of time under 37 C.F.R. § 1.136 is required to obtain entry of this Reply Brief, such extension is hereby respectfully requested. If there are any fees due under 37 C.F.R. §§ 1.16 or 1.17 which are not enclosed herewith, including any fees required for an extension of time under 37 C.F.R. § 1.136, please charge such fees to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: September 30, 2008

By: 

Anthony M. Gutowski
Reg. No. 38,742